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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,473	09/10/2003	Masao Ozeki	242619US0	2219
22850 7590 03/06/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER SCHECHTER, ANDREW M	
			ART UNIT 2871	PAPER NUMBER
			NOTIFICATION DATE 03/06/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/658,473

Applicant(s)

OZEKI ET AL.

Examiner

Andrew Schechter

Art Unit

2871

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6 and 9-16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

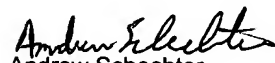
11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 1/23/07
13. ☒ Other: PTO-892.

Continuation of 11. does NOT place the application in condition for allowance because:

The applicant presents a new argument [pp. 2-3] that the office action cites no evidence regarding how to achieve the recited transmittance of at least 80% specifically in a PDLC device and more specifically in a reverse mode PDLC device. The applicant asks how one of ordinary skill in the art could possibly produce the claimed invention "without even the slightest guidance" concerning how to achieve the required light transmittance in reverse mode PDLCs. This argument is not persuasive. First, the examiner notes that, as stated in the rejection, Asakawa gives multiple examples of devices having at least 80% transmittance; this is clearly a desirable feature and should be expected in a heads-up display, where the user views the outside world through the display panel. Second, the examiner does not agree that those of ordinary skill in the art would find it difficult to make a PDLC having 80% transmittance; for the benefit of the applicant, the examiner makes of record the following references to PDLC devices: U.S. Patent No. 5,305,126 to Kobayashi et al. (issued in 1994), which shows 80% transmittance [see Fig. 3, for instance], U.S. Patent No. 5,437,811 to Doane et al. (issued in 1995), which discloses a transmittance of 88% as "acceptable" and a transmittance of 62% as "unacceptable" [col. 10, line 45 - col. 11, line 2], and in particular a reverse-mode PDLC with transmittance of 93% [col. 13, lines 15-47]. It should be clear that making a high transmittance PDLC device has long been a known goal, has long been achievable, and would have been achievable in the device of the Asakawa in view of Date without undue experimentation. (Kobayashi and Doane are cited merely to respond to the applicant's arguments, and are not being incorporated into the rejection.)

The applicant argues [p. 3] that the Okuda relates to normal PDLCs, not reverse mode PDLCs, so "no teaching or suggestion exists concerning how to achieve the claimed peripheral transparency in reverse mode PDLCs". This is not persuasive. The issue of peripheral transparency relates to making the wiring components and resins in the periphery transparent, for instance, and has utterly nothing to do with whether the liquid crystal in the non-peripheral region is PDLC or reverse mode PDLC. The applicant further argues [p. 4] that Okuda's teaching is not combinable with other references such as Nishiyama for vague reasons related to some "specific structures". This is not persuasive. Okuda's teaching is clear and would have been easy to follow for one of ordinary skill in the art, without undue experimentation, in the device discussed in the rejection.

The applicant argues [p. 4] that having to resort to combining 5 reference amounts to improper hindsight analysis. This is not persuasive. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).


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1 March 2007